

**REMARKS:**

Claims 1-53 are currently pending in the application.

Objection to the Specification.

Claims 52 stands rejected under 35 U.S.C. § 101.

Claims 1, 2, 10-12, 18, 19, 27-29, 35, 36, 44-46, and 52 stand rejected under 35 U.S.C. § 102(e) over U.S. Patent No. 6,996,589 to Jayaram et al. (“*Jayaram*”).

Claims 16, 17, 33, 34, 50, and 51 stand rejected under 35 U.S.C. § 103(a) over *Jayaram*.

Claims 3, 20, 37, and 53 stand rejected under 35 U.S.C. § 103(a) over *Jayaram* in view of U.S. Publication No. 2002/0046301 to Shannon et al. (“*Shannon*”).

Claims 4-6, 21-23, 25, 38-40 and 42 stand rejected under 35 U.S.C. § 103(a) over *Jayaram* in view of U.S. Patent No. 6,381,709 to Casagrande et al. (“*Casagrande*”).

Claims 13-15, 30-32, and 47-49 stand rejected under 35 U.S.C. § 103(a) over *Jayaram* in view of U.S. Publication No. 2003/0233249 to Walsh et al. (“*Walsh*”).

Claims 7, 9, 24, 26, 41, and 43 stand rejected under 35 U.S.C. § 103(a) over *Jayaram* in view of *Casagrande* and in further view of *Walsh*.

Applicants respectfully submit that all of Applicants arguments and amendments are without prejudice or disclaimer. In addition, Applicants have merely discussed example distinctions from the cited prior art. Other distinctions may exist, and as such, Applicants reserve the right to discuss these additional distinctions in a future Response or on Appeal, if appropriate. Applicants further respectfully submit that by not responding to additional statements made by the Examiner, Applicants do not acquiesce to the Examiner's additional statements. The example distinctions discussed by Applicants are considered sufficient to overcome the Examiner's rejections. In addition, Applicants reserve the right to pursue broader claims in this Application or through a continuation patent application. No new matter has been added.

**OBJECTION:**

The specification stands objected to as failing to provide proper antecedent basis for the claimed subject matter. Applicants respectfully disagree and respectfully traverse the Examiner's objection to the specification.

In particular, the Examiner states:

Correction of the following is required: computer-readable media.

(21 March 2008 Office Action, Page 2). Applicants do not understand what the Examiner is objecting to and respectfully requests further explanation from the Examiner. The Examiner may call the undersigned, Steven J. Laureanti, at (480) 830-2700 if the Examiner believes that it would be easier to discuss the source of confusion over the phone.

**REJECTION UNDER 35 U.S.C. § 101:**

Claim 52 stands rejected under 35 U.S.C. § 101 as allegedly being directed towards non-statutory subject matter. Applicants respectfully disagree and respectfully traverse the Examiner's rejection of Claim 52 under 35 U.S.C. § 101.

In particular, the Examiner states:

Claim 52 is rejected under 35 U.S.C. 101 because "A computer-implemented system" comprising means (i.e., software) does not include any functional hardware structure of a system. A system (i.e., machine) comprising software is considered as program per se, which is not one of the categories of statutory subject matter.

(21 March 2008 Office Action, Pages 2-3). Although Applicants believe Claims 52 is directed to patentable subject matter without amendment, Applicants have amended independent Claims 52 to more particularly point out and distinctly claim Applicants invention. By making these amendments, Applicants do not indicate agreement with or acquiescence to the Examiner's position with respect to the rejections of this claims under 35 U.S.C. § 101, as set forth in the Office Action.

Applicants respectfully submit that Claim 52 is directed to statutory subject matter and is considered to be in full compliance with the requirements of 35 U.S.C. § 101. Applicants further

respectfully submit that Claim 52 is in condition for allowance. Thus, Applicants respectfully request that the rejection of Claim 52 under 35 U.S.C. § 101 be reconsidered and that Claim 52 be allowed.

In addition, Applicants respectfully request that the Examiner call the undersigned, Steven J. Laureanti, at (480) 830-2700, if the Examiner has additional comments or suggestions to the 35 U.S.C. § 101 rejection of the subject Application or if the Examiner believes it would be easier to discuss the 35 U.S.C. § 101 rejection over the telephone.

**REJECTION UNDER 35 U.S.C. § 112 SECOND PARAGRAPH:**

Applicants thank the Examiner for withdrawing the rejection of Claims 1-53 under 35 U.S.C. § 112, second paragraph.

**REJECTION UNDER 35 U.S.C. § 102(e):**

Claims 1, 2, 10-12, 18, 19, 27-29, 35, 36, 44-46, and 52 stand rejected under 35 U.S.C. § 102(e) over *Jayaram*. Applicants respectfully disagree.

Applicants respectfully submit that *Jayaram* fails to disclose each and every limitation recited by Claims 1, 2, 10-12, 18, 19, 27-29, 35, 36, 44-46, and 52. Applicants further submit that Claims 1, 2, 10-12, 18, 19, 27-29, 35, 36, 44-46, and 52 patentably distinguish over *Jayaram*. Thus, Applicants respectfully traverse the Examiner's rejection of Claims 1, 2, 10-12, 18, 19, 27-29, 35, 36, 44-46, and 52 under 35 U.S.C. § 102(e) over *Jayaram*.

***Jayaram* Fails to Disclose, Teach, or Suggest Various Limitations Recited in Applicant's Claims**

For example, with respect to independent Claim 1, this claim recites:

***A computer-implemented system for executing bulk data transfers between persistent data stores in connection with an enterprise-level business workflow, comprising:***

***a data integration server coupled to one or more persistent data stores, the data integration server comprising:***

*a plurality of programmatic source interfaces*, each being associated with a corresponding source data store, defined according to a common programmatic source interface specification, and exposed within the data integration server during a bulk data transfer in connection with an enterprise-level business workflow to enable the data integration server to extract from the corresponding source data store one or more data entities for loading into any one or more selected target data stores during the bulk data transfer; and

*a plurality of programmatic target interfaces*, each being associated with a corresponding target data store, defined according to a common programmatic target interface specification, and exposed within the data integration server during the bulk data transfer in connection with an enterprise-level business workflow to enable the data integration server to load into the corresponding target data store the one or more data entities extracted from any one or more selected source data stores during the bulk data transfer,

wherein each of the plurality of programmatic source interfaces and the plurality of programmatic target interfaces is operable to:

provide to the corresponding source and target data stores an abstraction of bulk data transfer operations within the data integration server such that custom code need not be developed in connection with the corresponding source and target data stores to enable bulk data transfers between the corresponding source and target data stores and any other persistent data store coupled with the data integration server; and

isolate from the data integration server specific details associated with the corresponding source and target data stores such that custom code need not be developed in connection with the data integration server to enable bulk data transfers between the corresponding source and target data stores and any other persistent data store coupled with the data integration server. (Emphasis Added).

In addition, *Jayaram* fails to disclose each and every limitation of independent Claims 18, 35, and 53.

Applicants respectfully submit that *Jayaram* fails to disclose, teach, or suggest independent Claim 1 limitations regarding a “***computer-implemented system for executing bulk data transfers between persistent data stores in connection with an enterprise-level business workflow***”. In particular, the Examiner notes that “*Jayaram* does teach a system for executing bulk data transfers between persistent data stores (col. 1, lines 6-9) in connection with an enterprise-level (e.g., billing industry or telecom industry) business workflow (flow of business information such customer information between 320 and 310 of figure 3; abstract; col. 16, lines 1-12; col. 13, lines 6-8). (21 March 2008 Office Action, Page 16). Applicants respectfully

disagree. In fact, Applicants respectfully direct the Examiner's attention to the cited portion of *Jayaram*:

unit/object of information (305), which comprises a structure for the data to be converted from the source system (320) to the target system (310). The basic unit of information (305) may be decided by employing the business object decision process (300, see, FIG. 3) and determining a basic business object (305). For instance, in the embodiment shown in FIG. 3, a source billing system (320) may be comprised of customers (325) as the basic unit of conversion (305). Every customer (325) in the billing system (320) can have one or more addresses (350) in the billing system (320) can have one or more addresses (350) and phone lines (360). Embodiments of this invention are not, however, limited to telecommunications and billing.

(Column 15, Lines 1-12). (Emphasis Added). However, Applicants note that *Jayaram* merely discloses a business object decision process (300) (i.e., a PCS phone billing system) that includes customer's names, addresses, phone numbers, a source database 310, and a target database (310). In fact, it appears that the Examiner is equating "executing bulk data transfers between persistent data stores in connection with an enterprise-level business workflow" recited in independent Claim 1 with the "**PCS phone billing system**" disclosed in *Jayaram*. (21 March 2008 Office Action, Page 16). However, as discussed above, the "**PCS phone billing system**" disclosed in *Jayaram* merely includes customer's names, addresses, phone numbers, a source database 310, and a target database (310), but **does not include, involve, or even relate to executing bulk data transfers between persistent data stores in connection with an enterprise-level business workflow**, as recited in independent Claim 1. (Column 11, Lines 34-38 and Column 12, Lines 1-12). Thus, Applicants respectfully submit that the equations forming the foundation of the Examiner's comparison between *Jayaram* and independent Claim 1 cannot be made. Applicants further respectfully submit that these distinctions alone are sufficient to patentably distinguish independent Claim 1 from *Jayaram*.

Applicants further respectfully submit that *Jayaram* fails to disclose, teach, or suggest independent Claim 1 limitations regarding a "**data integration server** coupled to one or more persistent data stores". In particular, the Examiner states:

a data integration server coupled to one or more persistent data stores (fig. 1; col. 3, lines 33-52; col. 10, lines 56-63)

(21 March 2008 Office Action, Page 3). By contrast, the cited portion of *Jayaram* on which the Examiner relies does not disclose a “**data integration server** coupled to one or more persistent data stores”, as recited in independent Claim 1 but rather merely describes a “**database conversion engine**.” (Column 10, lines 56-63). (Emphasis Added). In fact, Applicants respectfully direct the Examiner’s attention to the cited portion of *Jayaram*, on which the Examiner relies:

A **database conversion engine** may comprise a computerized system further comprising computer executable instructions encoded in said computerized system (or served to the computerized system via a network connection) for the receiving/pulling of formatted source data, validation, conversion (including scheduling instructions thereof), and uploading of the source database to the target database.

(Column 10, lines 56-63). (Emphasis added). Applicants respectfully submit that the Examiner has mischaracterized the cited portion of *Jayaram*. For example, the “**database conversion engine**” of *Jayaram* does not disclose a “**data integration server** coupled to one or more persistent data stores”, as recited in independent Claim 1, but merely comprises “computer executable instructions.” In particular, the Examiner equates the “**data integration server**” recited in independent Claim 1 with the “**database conversion engine**” disclosed in *Jayaram*. (21 March 2008 Office Action, Page 3). Applicants respectfully submit that this equation is inaccurate, that is the “**database conversion engine**” as disclosed in *Jayaram*, does not equate to “**data integration server**” as recited in independent Claim 1 because, among other things, it is not coupled with one or more persistent data stores and does not comprise a plurality of programmatic source interfaces and a plurality of programmatic target interfaces. In contrast, the “**data integration server**” recited in independent Claim 1 **is coupled with one or more persistent data stores and comprises a plurality of programmatic source interfaces and a plurality of programmatic target interfaces**. Applicants respectfully request the Examiner to verify the references to *Jayaram*, to ensure that some mistake has not been made.

Applicants respectfully submit that *Jayaram* fails to disclose, teach, or suggest independent Claim 1 limitations regarding a “**data integration server** coupled to one or more persistent data

stores, the data integration server comprising: *a plurality of programmatic source interfaces*, each being associated with a corresponding source data store, defined according to a common programmatic source interface specification, and exposed within the data integration server during a bulk data transfer in connection with an enterprise-level business workflow to enable the data integration server to extract from the corresponding source data store one or more data entities for loading into any one or more selected target data stores during the bulk data transfer.” In particular, the Examiner states:

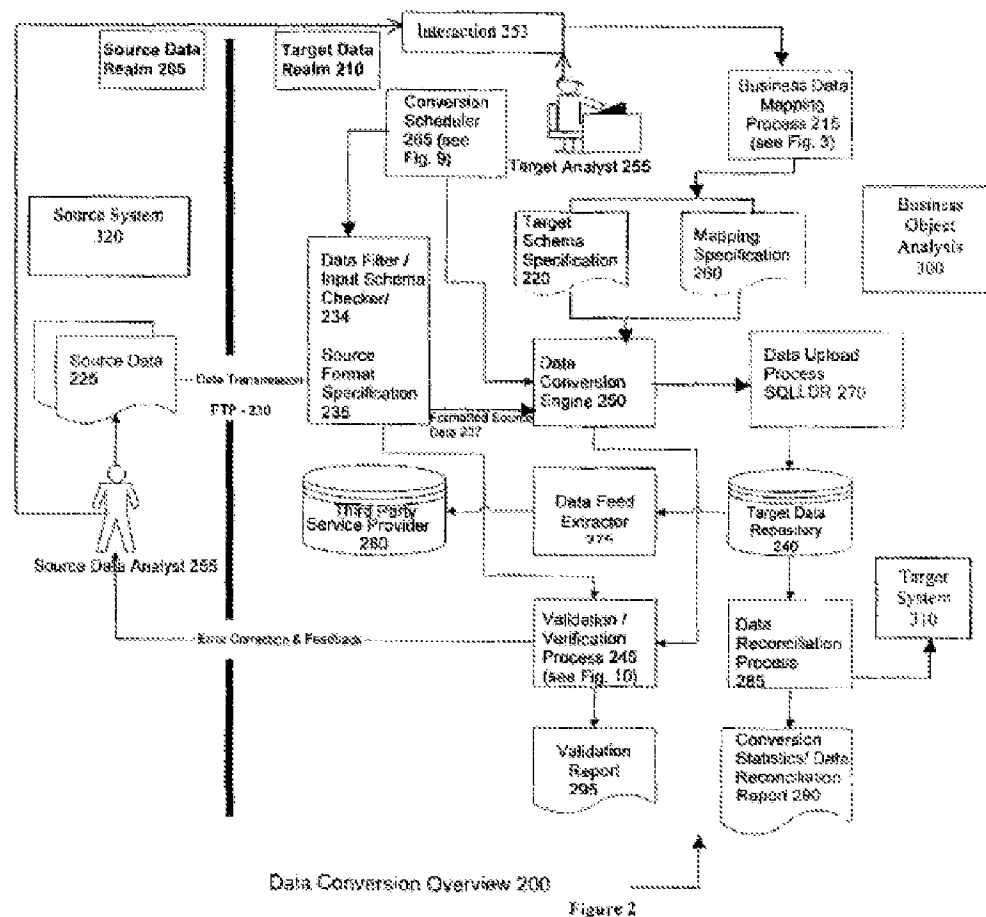
one or more programmatic source interfaces (234, fig. 2; col. 10, lines 56-63; col. 12, lines 4-22), each being associated with a corresponding source data store, defined according to a common programmatic source interface specification (col. 11, lines 1-5), and exposed within the data integration server during a bulk data transfer in connection with an enterprise-level business workflow (abstract; col. 16, lines 1-12) to enable the data integration server to extract from the corresponding source data store one or more data entities for loading into anyone or more selected target data stores during the bulk data transfer (col. 11, lines 5-11);

(21 March 2008 Office Action, Page 3). By contrast, the cited portion of *Jayaram* on which the Examiner relies does not disclose a “*data integration server* coupled to one or more persistent data stores, the data integration server comprising: *a plurality of programmatic source interfaces*, each being associated with a corresponding source data store, defined according to a common programmatic source interface specification, and exposed within the data integration server during a bulk data transfer in connection with an enterprise-level business workflow to enable the data integration server to extract from the corresponding source data store one or more data entities for loading into any one or more selected target data stores during the bulk data transfer”, as recited in independent Claim 1 but rather merely describes a “*data filter (234)*.” (Column 12, lines 4-22). (Emphasis added). In fact, Applicants respectfully direct the Examiner’s attention to the cited portion of *Jayaram*, on which the Examiner relies:

In one embodiment, a *data filter (234)* will convert source data (225) from the source database (320) from a fixed format to an XML (237). The data filter (234) may be configured to read varying types of input data so that it can meet the needs of multiple projects, each potentially having its own source extract format specifications (235) and input format. Some source systems (320) may present data that may be delimited while some may opt for fixed data format. The data filter (234) may be configured to generate varying schemas of XML output files. The filter (234) may be configurable with the output format parameter so that it will generate an output whose format may be consistent with the specifications.

The filter (234) may process voluminous data through burst modes or through streaming mode by using a scalable architecture. The filter (234) may invoke the XML compliance test to ensure that the data meets the W3C specifications. The filter may be configured to group data in batches of files each containing a predetermined volume of source data (225).

(Column 12, lines 4-22). (Emphasis added). In addition, Applicants respectfully direct the Examiner's attention to Figure 2, on which the Examiner relies:



Applicants respectfully submit that the Examiner has mischaracterized Figure 2 and the cited portion of *Jayaram*. For example, Figure 2 of *Jayaram* does not disclose a “**data integration server** coupled to one or more persistent data stores, the data integration server comprising: **a plurality of programmatic source interfaces**”, as recited in independent Claim 1. In particular, the Examiner equates the “**plurality of programmatic source interfaces**” recited in independent Claim 1 with the “**data filter 234**” disclosed in *Jayaram*. (21 March 2008 Office Action, Page 3). Applicants respectfully submit that this equation is inaccurate, that is the “**data**



*filter 234*” as disclosed in *Jayaram*, does not equate to the “*plurality of programmatic source interfaces*” as recited in independent Claim 1 because, among other things, the “*data filter 234*” disclosed in *Jayaram* merely converts source data from a fixed format to an XML. In contrast, the “*plurality of programmatic source interfaces*” recited in independent Claim 1 are each associated with a corresponding source data store, defined according to a common programmatic source interface specification, and exposed within the data integration server during a bulk data transfer in connection with an enterprise-level business workflow which enable the data integration server to extract from the corresponding source data store one or more data entities for loading into any one or more selected target data stores during the bulk data transfer. Applicants respectfully request the Examiner to verify the references to *Jayaram*, to ensure that some mistake has not been made.

Applicants respectfully submit that *Jayaram* fails to disclose, teach, or suggest independent Claim 1 limitations regarding a “*data integration server* coupled to one or more persistent data stores, the data integration server comprising: [...] *a plurality of programmatic target interfaces*, each being associated with a corresponding target data store, defined according to a common programmatic target interface specification, and exposed within the data integration server during the bulk data transfer in connection with an enterprise-level business workflow to enable the data integration server to load into the corresponding target data store the one or more data entities extracted from any one or more selected source data stores during the bulk data transfer”. In particular, the Examiner states:

one or more programmatic target interfaces (270, fig. 2; col. 10, lines 56-63; col. 12, lines 31-33), each being associated with a corresponding target data store, defined according to a common programmatic target interface specification (col. 11, lines 5-11), and exposed within the data integration server during a bulk data transfer in connection with an enterprise-level business workflow (abstract) to enable the data integration server to load into the corresponding target data store one or more data entities extracted from anyone or more selected source data stores during the bulk data transfer (col. 11, lines 5-11);

(21 March 2008 Office Action, Page 4). By contrast, the cited portion of *Jayaram* on which the Examiner relies does not disclose a “*data integration server* coupled to one or more persistent data stores, the data integration server comprising: [...] *a plurality of programmatic target interfaces*, each being associated with a corresponding target data store, defined according to a

common programmatic target interface specification, and exposed within the data integration server during the bulk data transfer in connection with an enterprise-level business workflow to enable the data integration server to load into the corresponding target data store the one or more data entities extracted from any one or more selected source data stores during the bulk data transfer”, as recited in independent Claim 1 but rather merely describes a “***final upload process 270***.” (Column 12, Lines 23-33). (Emphasis Added). In fact, Applicants respectfully direct the Examiner’s attention to the cited portion of *Jayaram*, on which the Examiner relies:

Finally, a target schema specification (220), which defines the layout of the target database (310) may be created. The mapping specification (260), target schema specification (220), and the source data (225)/formatted source data (237) may be sent to the database conversion engine (250). The database conversion engine may include a validation process (245, see, FIG. 10), third-party verification of data (245, see, FIG. 10), and/or a conversion scheduler component (265) for scalability purposes. A ***final upload process (270)*** may be provided to load the target data (505) into the target database (310).

(Column 12, lines 23-33). (Emphasis added). Applicants respectfully submit that the Examiner has mischaracterized Figure 2 and the cited portion of *Jayaram*. For example, the cited portion of *Jayaram* makes clear that *Jayaram* does not disclose a “***data integration server*** coupled to one or more persistent data stores, the data integration server comprising: ***a plurality of programmatic target interfaces***”, as recited in independent Claim 1.

In particular, the Examiner equates the “***plurality of programmatic target interfaces***” recited in independent Claim 1 with the “***final upload process 270***” disclosed in *Jayaram*. (21 March 2008 Office Action, Page 4). Applicants respectfully submit that this equation is inaccurate, that is the “***final upload process 270***” as disclosed in *Jayaram*, does not equate to the “***plurality of programmatic target interfaces***” as recited in independent Claim 1 because, among other things, the “***final upload process 270***” disclosed in *Jayaram* ***is merely an upload process that may be provided to only load*** the target data into the database, but ***does not include, involve, or even relate to the a plurality of programmatic target interfaces***, as recited in independent Claim 1. (Column 12, Lines 4-33). the “***plurality of programmatic target interfaces***” recited in independent Claim 1 are each associated with a corresponding target data store, defined according to a common programmatic target interface specification, and exposed within the data integration server during the bulk data transfer in connection with an enterprise-level business

workflow to enable the data integration server to load into the corresponding target data store the one or more data entities extracted from any one or more selected source data stores during the bulk data transfer”. Applicants respectfully request the Examiner to verify the references to *Jayaram*, to ensure that some mistake has not been made.

### **The Office Action Fails to Properly Establish a *Prima Facie* case of Anticipation over *Jayaram***

Applicants respectfully submit that the allegation in the present Office Action that *Jayaram* discloses all of the claimed features is respectfully traversed. Further, it is noted that the Office Action provides no concise explanation as to how *Jayaram* is considered to anticipate *all of the limitations* in Claims 1, 2, 10-12, 18, 19, 27-29, 35, 36, 44-46, and 52. *A prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if each and every element of a claimed invention is identically shown in that single reference.* MPEP § 2131. (Emphasis Added).

Applicants respectfully points out that "it is incumbent upon the examiner to identify wherein each and every facet of the claimed invention is disclosed in the applied reference." Ex parte Levy, 17 U.S.P.Q.2d (BNA) 1461, 1462 (Pat. & Tm. Off. Bd. Pat. App. & Int. 1990). Applicants respectfully submits that *the Office Action has failed to establish a prima facie case of anticipation in Claims 1, 2, 10-12, 18, 19, 27-29, 35, 36, 44-46, and 52 under 35 U.S.C. § 102 with respect to Jayaram because Jayaram fails to identically disclose each and every element of Applicants claimed invention, arranged as they are in Applicants claims.*

### **Applicants Claims are Patentable over *Jayaram***

Independent Claims 18, 35, and 52 are considered patentably distinguishable over *Jayaram* for at least the reasons discussed above in connection with independent Claim 1.

Furthermore, with respect to dependent Claims 2, 10-12, 19, 27-29, 36, and 44-46: Claims 2 and 10-12 depend from independent Claim 1; Claims 19 and 27-29 depend from independent Claim 18; and Claims 36 and 44-46 depend from independent Claim 35 and are also considered patentably distinguishable over *Jayaram*. Thus, dependent Claims 2, 10-12, 19, 27-29, 36, and 44-46 are

considered to be in condition for allowance for at least the reason of depending from an allowable claim.

Thus, for at least the reasons set forth herein, Applicants respectfully submit that Claims 1, 2, 10-12, 18, 19, 27-29, 35, 36, 44-46, and 52 are not anticipated by *Jayaram*. Applicants further respectfully submit that Claims 1, 2, 10-12, 18, 19, 27-29, 35, 36, 44-46, and 52 are in condition for allowance. Thus, Applicants respectfully request that the rejection of Claims 1, 2, 10-12, 18, 19, 27-29, 35, 36, 44-46, and 52 under 35 U.S.C. § 102 (e) be reconsidered and that Claims 1, 2, 10-12, 18, 19, 27-29, 35, 36, 44-46, and 52 be allowed.

#### **THE LEGAL STANDARD FOR ANTICIPATION REJECTIONS UNDER 35 U.S.C. § 102:**

The following sets forth the legal standards for "anticipation."

The events that can lead to anticipation can be divided into the following seven categories, all defined by statute:

1. Prior Knowledge: The invention was publicly known in the United States before the patentee invented it.
2. Prior Use: The invention was publicly used in the United States either (i) before the patentee invented it; or (ii) more than one year before he filed his patent application.
3. Prior Publication: The invention was described in a printed publication anywhere in the world either (i) before the patentee invented it; or (ii) more than one year before he filed his patent application.
4. Prior Patent: The invention was patented in another patent anywhere in the world either (i) before the patentee invented it; or (ii) more than one year before he filed his application.
5. On Sale: The invention was on sale in the United States more than one year before the patentee filed his application.

6. Prior Invention: The invention was invented by another person in the United States before the patentee invented it, and that other person did not abandon, suppress or conceal the invention.

7. Prior U.S. Patent: The invention was described in a patent granted on a patent application filed in the United States before the patentee made the invention.

Each of those seven events has its own particular requirements, but they all have the following requirements in common:

1. Anticipation must be shown by clear and convincing evidence.
2. If one prior art reference completely embodies the same process or product as any claim, the product or process of that claim is anticipated by the prior art, and that claim is invalid. To decide whether anticipation exists, one must consider each of the elements recited in the claim and determine whether all of them are found in the particular item alleged to be anticipating prior art.
3. There is no anticipation unless every one of those elements is found in a *single* prior publication, prior public use, prior invention, prior patent, prior knowledge or prior sale. One may not combine two or more items of prior art to make out an anticipation. One should, however, take into consideration, not only what is expressly disclosed or embodied in the particular item of prior art, but also what inherently occurred in its practice.
4. There cannot be an accidental or unrecognized anticipation. A prior duplication of the claimed invention that was accidental, or unrecognized, unappreciated, and incidental to some other purpose is not an invalidating anticipation.

Those four requirements must be kept in mind and applied to each kind of anticipation in issue. The following additional requirements apply to some categories of anticipation.

1. Prior Knowledge: An invention is anticipated if it was known by others in the United States before it was invented by the patentee. "Known," in this context, means known to the public. Private knowledge, secret knowledge or knowledge confined to a small, limited group is not

necessarily an invalidating anticipation. Things that were known to the public only outside the United States are not invalidating anticipation.

2. Prior Use: An invention is anticipated if it was used by others before it was invented by the patentee, or more than one year before the patentee filed his patent application. "Use," in this context, means a public use.

3. Prior Publication: A patent is invalid if the invention defined by the Claims was described in a printed publication before it was invented by the patentee or more than one year prior to the filing date of his application. For a publication to constitute an anticipation of an invention, it must be capable, when taken in conjunction with the knowledge of people of ordinary skill in the art, of placing the invention in the possession of the reader. The disclosure must be enabling and meaningful. In determining whether the disclosure is complete, enabling, and meaningful, one should take into account what would have been within the knowledge of a person of ordinary skill in the art at the time, and one may consider other publications that shed light on the knowledge such a person would have had.

4. Prior Patent: If the invention defined by the claims was patented in the United States or a foreign country, either before it was invented by the inventor or more than one year before the inventor filed his patent application, then the invention was anticipated. The effective date for this type of anticipation is the date on which two things co-existed: (i) the owner of the referenced patent had the right to enforce that patent; and (ii) the reference patent was available to the public. What was "patented" in the reference patent is determined by what is defined by its claims, interpreted in the light of the general description.

5. On Sale: A patent is invalid if the invention claimed in it was on sale in the United States more than one year prior to the application filing date.

6. Prior Invention: If the invention defined by the claims was invented by another person, in the United States, before it was invented by the inventor, and that other person did not abandon, suppress, or conceal the invention, the invention lacks novelty. A prior invention, even if put in physical form and shown to produce the desired result, is not an invalidating anticipation

unless some steps were taken to make it public. However, it is not necessary that the inventor had knowledge of that prior invention.

7. Prior U.S. Application: A patent is invalid for lack of novelty if the invention defined by the claims was described in a United States patent issued on a patent application filed by another person before the invention was made by the inventor. The effective date of a prior application for purposes of this issue is the date on which it was filed in the United States. Foreign-filed patent applications do not apply. If the issued United States patent claims the benefit of more than one United States application, its effective date as an anticipation is the filing date of the first United States application that discloses the invention claimed in that referenced patent.

Experimental Use Exception: The law recognizes that it is beneficial to permit the inventor the time and opportunity to develop his invention. As such there is an "experimental use" exception to the "public use" and "on sale" rules. Even though the invention was publicly used or on sale, more than one year prior to the application filing date, that does not invalidate the patent, provided the principal purpose was experimentation rather than commercial benefit. If the primary purpose was experimental, it does not matter that the public used the invention or that the inventor incidentally derived profit from it.

When a public use or sale is shown, the burden is on the inventor to come forward with evidence to support the experimental use exception. Only experimentation by or under the control of the inventor qualifies for this exception. Experimentation by a third party, for its own purposes, does not qualify for this exception. Once the invention leaves the inventor's control, its use is a public one, even if further experimentation takes place.

The experimentation must relate to the claimed features of the invention. And it must be for the purpose of technological improvement, not commercial exploitation. If any commercial exploitation does occur, it must be merely incidental to the primary purpose of experimentation. A test done primarily for marketing, and only incidentally for technological improvement, is a public use.

**REJECTION UNDER 35 U.S.C. § 103(a):**

Claims 16, 17, 33, 34, 50, and 51 stand rejected under 35 U.S.C. § 103(a) over *Jayaram*.

Claims 3, 20, 37, and 53 stand rejected under 35 U.S.C. § 103(a) over *Jayaram* in view of *Shannon*.

Claims 4-6, 21-23, 25, 38-40 and 42 stand rejected under 35 U.S.C. § 103(a) over *Jayaram* in view of *Casagrande*. Claims 13-15, 30-32, and 47-49 stand rejected under 35 U.S.C. § 103(a) over *Jayaram* in view of *Walsh*.

Claims 7, 9, 24, 26, 41, and 43 stand rejected under 35 U.S.C. § 103(a) over *Jayaram* in view of *Casagrande* and in further view of *Walsh*.

Applicants respectfully submit that the proposed combination of *Jayaram*, *Shannon*, *Casagrande*, and *Walsh*, either individually or in combination fails to disclose each and every limitation recited by Claims 3-7, 9, 13-16, 17, 20-24, 25, 26, 30-33, 34, 37-41, 42, 43, 47-50, 51, and 53. Applicants further respectfully submit that Claims 3-7, 9, 13-16, 17, 20-24, 25, 26, 30-33, 34, 37-41, 42, 43, 47-50, 51, and 53 patentably distinguish over the proposed combination of *Jayaram*, *Shannon*, *Casagrande*, and *Walsh*. Thus, Applicants respectfully traverse the Examiner's obvious rejection of Claims 3-7, 9, 13-16, 17, 20-24, 25, 26, 30-33, 34, 37-41, 42, 43, 47-50, 51, and 53 under 35 U.S.C. § 103(a) over the proposed combination of *Jayaram*, *Shannon*, *Casagrande*, or *Walsh*, either individually or in combination.

**The Office Action Acknowledges that *Jayaram* Fails to Disclose Various Limitations Recited in Applicants Claims**

Applicants respectfully submit that the Office Action acknowledges, and Applicants agree, that *Jayaram* fails to disclose various limitations recited in independent Claim 1. Specifically the Examiner acknowledges that *Jayaram* fails to teach “*isolating transformation logic from defined programmatic interfaces*”, “*JAVA interfaces*”, “*industry standard interface and industry standard protocol*”, “*industry standard File Transfer Protocol (FTP) interface and FTP industry standard protocol*”, “*Extract-Transform-Load (ETL) tool*”, and “*to support compatibility between any commercially available ETL tool*”. (21 March 2008 Office Action, Page 6). However, the



Examiner asserts that the cited portions of *Shannon*, *Casagrande*, and *Walsh* disclose the acknowledged shortcomings in *Jayaram*. Applicants respectfully traverse the Examiner's assertions regarding the subject matter disclosed in *Shannon*, *Casagrande*, and *Walsh*.

**The Office Action Fails to Properly Establish a *Prima Facie* case of Obvious over the Proposed *Jayaram-Shannon-Casagrande-Walsh* Combination According to the UPSTO Examination Guidelines**

Applicants respectfully submit that the Office Action fails to properly establish a *prima facie* case of obviousness based on the proposed combination of *Jayaram*, *Shannon*, *Casagrande*, and *Walsh*, either individually or in combination, and in particular, the Office Action fails to establish a *prima facie* case of obviousness based on the "Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in View of the Supreme Court Decision in *KSR International Co. v. Teleflex Inc.*" (the "Guidelines").

As reiterated by the Supreme Court in *KSR International Co. v. Teleflex Inc.* (*KSR*), the framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.* (383 U.S. 1, 148 USPQ 459 (1966)). Obviousness is a question of law based on underlying factual inquiries. These factual inquiries enunciated by the Court are as follows:

- (1) Determining the scope and content of the prior art;
- (2) Ascertaining the differences between the claimed invention and the prior art; and
- (3) Resolving the level of ordinary skill in the pertinent art.

(Notice, 72 Fed. Reg. 57527 (Oct. 10, 2007)). Objective evidence relevant to the issue of obviousness must be evaluated by Office personnel. (383 U.S. 17–18, 148 USPQ 467 (1966)). As stated by the Supreme Court in *KSR*, "While the sequence of these questions might be reordered in any particular case, the [*Graham*] factors continue to define the inquiry that controls." (*KSR*, 550 U.S. at \_\_\_, 82 USPQ2d at 1391).

However, it is important to note that the Guidelines require that Office personnel "***ensure that the written record includes findings of fact*** concerning the state of the art and the teachings of the references applied. (Notice, 72 Fed. Reg. 57527 (Oct. 10, 2007)). In addition, the Guidelines

remind Office personnel that the “***factual findings made by Office personnel are the necessary underpinnings to establish obviousness.***” (*id.*). Further, “***Office personnel must provide an explanation to support an obviousness rejection*** under 35 U.S.C. 103. (*id.*). In fact, “35 U.S.C. 132 requires that the applicant be notified of the reasons for the rejection of the claim so that he or she can decide how best to proceed” and “clearly setting forth findings of fact and the rationale(s) to support a rejection in an Office action leads to the prompt resolution of issues pertinent to patentability.” (*id.*).

With respect to the subject application, the Office Action has not shown the ***factual findings necessary to establish obviousness*** or even ***an explanation to support the obviousness rejection*** based on the proposed combination of *Jayaram, Shannon, Casagrande, and Walsh*. The Office Action merely states that “it would have been obvious to one having ordinary skill in the art at the time of the invention was made: that the transformation logic can be coded separately from logical relationship” and “to support ETL tool or any type of tools for the data stores”. (21 March 2008 Office Action, Pages 6-13). Applicants respectfully disagree and respectfully submit that the Examiner’s conclusory statement is not sufficient to establish the ***factual findings necessary to establish obviousness*** and is not a sufficient ***explanation to support the obviousness rejection*** based on the proposed combination of *Jayaram, Shannon, Casagrande, and Walsh*.

The Guidelines further provide guidance to Office personnel in “determining the scope and content of the prior art” such as, for example, “Office personnel must first obtain a thorough understanding of the invention disclosed and claimed in the application.” (Notice, 72 Fed. Reg. 57527 (Oct. 10, 2007)). The scope of the claimed invention must be clearly determined by giving the claims the “broadest reasonable interpretation consistent with the specification.” (See *Phillips v. AWH Corp.*, 415 F.3d 1303, 1316, 75 USPQ2d 1321, 1329 (Fed. Cir. 2005) and MPEP § 2111.). In addition, the Guidelines state that any “***obviousness rejection should include***, either explicitly or implicitly in view of the prior art applied, ***an indication of the level of ordinary skill.***” (Notice, 72 Fed. Reg. 57528 (Oct. 10, 2007)). With respect to the subject Application, the Office Action has not provided ***an indication of the level of ordinary skill.***

The Guidelines still further provide that once the *Graham* factual inquiries are resolved, Office personnel must determine whether the claimed invention would have been obvious to one of

ordinary skill in the art. (*Id.*). For example, the Guidelines state that ***Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art.*** (*Id.*). In addition, the Guidelines state that the proper analysis is ***whether the claimed invention would have been obvious to one of ordinary skill in the art after consideration of all the facts.*** (*Id.* and See 35 U.S.C. 103(a)).

With respect to the subject Application, the Office Action has not expressly resolved any of the *Graham* factual inquiries to determine whether Applicants invention would have been obvious to one of ordinary skill in the art. In addition, the Office Action fails to ***explain why the difference(s) between the proposed combination of Jayaram, Shannon, Casagrande, Walsh, and Applicants claimed invention would have been obvious to one of ordinary skill in the art.*** The Office Action merely states that “because by doing so it would be easier to develop separate segments of codes in a complex software system”, “because *Shannon* teaching of JAVA interfaces would provide a greater ease of integration by allowing data to be mapped from one application to another application”, “because *Casagrande* teaching of industry standard protocol interface would enhance and make it easier for *Jayaram*’s system to transfer data between data stores using well known protocol such as FTP”, “in order to provide a data store independent system allowing data conversion from any source data stores into any target data stores”, and “because *Walsh*’s teaching of ETL tool would enhance the transfer mechanism in *Jayaram*’s and *Casagrande*’s systems by providing extraction of data from a data source”. (21 March 2008 Office Action, Pages 6-13). Applicants respectfully disagree and further respectfully request clarification as to how this statement ***explains why the difference(s) between the proposed combination of Jayaram, Shannon, Casagrande, Walsh, and Applicants claimed invention would have been obvious to one of ordinary skill in the art.*** Applicants further respectfully submit that the Examiner is using the subject Application as a template to formulate reconstructive hindsight, which constitutes impermissible use of hindsight under 35 U.S.C. § 103(a).

The Guidelines yet further state that the “key to supporting any rejection under 35 U.S.C. 103 is the ***clear articulation of the reason(s) why the claimed invention would have been obvious.***” (Notice, 72 Fed. Reg. 57528 (Oct. 10, 2007)). In fact, the Supreme Court in *KSR* noted that “***the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit.***” (*id.*). The Court quoting *In re Kahn* (441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)), stated that

“‘[R]ejections on *obviousness cannot be sustained by mere conclusory statements*; instead, there *must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.*’” (KSR, 550 U.S. at \_\_\_, 82 USPQ2d at 1396). The Guidelines provide the following seven rationales:

- (A) Combining prior art elements according to known methods to yield predictable results;
- (B) Simple substitution of one known element for another to obtain predictable results;
- (C) Use of known technique to improve similar devices (methods, or products) in the same way;
- (D) Applying a known technique to a known device (method, or product) ready for improvement to yield predictable results;
- (E) “‘Obvious to try’”—choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success;
- (F) Known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art;
- (G) Some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention.

Applicants respectfully submit that the *Office Action fails to provide any articulation, let alone, clear articulation of the reasons why Applicants claimed invention would have been obvious*. For example, the *Examiner has not adequately supported the selection and combination of Jayaram, Shannon, Casagrande, and Walsh to render obvious Applicants claimed invention*. The Examiner's unsupported conclusory statements that “it would have been obvious to one having ordinary skill in the art at the time of the invention was made: that the transformation logic can be coded separately from logical relationship”, “to support ETL tool or any type of tools for the data stores”, “because by doing so it would be easier to develop separate segments of codes in a complex software system”, “because *Shannon* teaching of JAVA interfaces would provide a greater ease of integration by allowing data to be mapped from one application to another application”, “because *Casagrande* teaching of industry standard protocol interface would enhance and make it easier for *Jayaram*’s system to transfer data between data stores using well known protocol such as FTP”, “in order to provide a data store independent system allowing data conversion from any source data stores into any target data stores”, and “because *Walsh*’s teaching of ETL tool would enhance the

transfer mechanism in *Jayaram's* and *Casagrande's* systems by providing extraction of data from a data source", *does not adequately provide clear articulation of the reasons why Applicants claimed invention would have been obvious*. (21 March 2008 Office Action, Pages 6-13). In addition, the Examiner's unsupported conclusory statement fails to meet any of the Guidelines rationales to render obvious Applicants claimed invention.

Thus, if the Examiner continues to maintain the obvious rejection based on the proposed combination of *Jayaram*, *Shannon*, *Casagrande*, and *Walsh*, Applicants respectfully request that the Examiner provide proper support for the obviousness rejection under 35 U.S.C. 103 as necessitated by the Guidelines.

#### **Applicants Claims are Patentable over the Proposed *Jayaram-Shannon-Casagrande-Walsh* Combination**

Applicants respectfully submit that as discussed above, independent Claims 1, 18, 35, and 52 are considered patentably distinguishable over *Jayaram*. In addition, Applicants respectfully submit that independent Claim 53 is considered patentably distinguishable over *Jayaram* for at least the reasons discussed above in connection with independent Claims 1, 18, 35, and 52.

Furthermore, with respect to dependent Claims 3-7, 9, 13-16, 17, 20-24, 25, 26, 30-33, 34, 37-41, 42, 43, 47-50, and 51: Claims 3-7, 9, 13-16, and 17 depend from independent Claim 1; Claims 20-24, 25, 26, 30-33, and 34 depend from independent Claim 18; and Claims 37-41, 42, 43, 47-50, and 51 depend from independent Claim 35. As mentioned above, each of independent Claims 1, 18, 35, 52, and 53 are considered patentably distinguishable over the proposed combination of *Jayaram*, *Shannon*, *Casagrande*, or *Walsh*, either individually or in combination. Thus, dependent Claims 3-7, 9, 13-16, 17, 20-24, 25, 26, 30-33, 34, 37-41, 42, 43, 47-50, and 51 are considered to be in condition for allowance for at least the reason of depending from an allowable claim.

For at least the reasons set forth herein, Applicants respectfully submit that Claims 3-7, 9, 13-16, 17, 20-24, 25, 26, 30-33, 34, 37-41, 42, 43, 47-50, 51, and 53 are not rendered obvious by the proposed combination of *Jayaram*, *Shannon*, *Casagrande*, or *Walsh*. Applicants further respectfully submit that Claims 3-7, 9, 13-16, 17, 20-24, 25, 26, 30-33, 34, 37-41, 42, 43, 47-50, 51,

and 53 are in condition for allowance. Thus, Applicants respectfully request that the rejection of Claims 3-7, 9, 13-16, 17, 20-24, 25, 26, 30-33, 34, 37-41, 42, 43, 47-50, 51, and 53 under 35 U.S.C. § 103(a) be reconsidered and that Claims 3-7, 9, 13-16, 17, 20-24, 25, 26, 30-33, 34, 37-41, 42, 43, 47-50, 51, and 53 be allowed.

**CONCLUSION:**

In view of the foregoing amendments and remarks, this application is considered to be in condition for allowance, and early reconsideration and a Notice of Allowance are earnestly solicited.

Although the Applicants believe no fees are deemed to be necessary; the undersigned hereby authorizes the Director to charge any additional fees which may be required, or credit any overpayments, to **Deposit Account No. 500777**. If an extension of time is necessary for allowing this Response to be timely filed, this document is to be construed as also constituting a Petition for Extension of Time Under 37 C.F.R. § 1.136(a) to the extent necessary. Any fee required for such Petition for Extension of Time should be charged to **Deposit Account No. 500777**.

**Please link this application to Customer No. 53184 so that its status may be checked via the PAIR System.**

Respectfully submitted,

23 June 2008  
Date

/Steven J. Laureanti/signed  
Steven J. Laureanti, Registration No. 50,274

BOOTH UDALL, PLC  
1155 W. Rio Salado Pkwy., Ste. 101  
Tempe AZ, 85281  
214.636.0799 (mobile)  
480.830.2700 (office)  
480.830.2717 (fax)  
steven@boothudall.com

**CUSTOMER NO. 53184**